

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

LYNWOOD UNIFIED SCHOOL
DISTRICT.

OAH CASE NO. 2012090295

ORDER GRANTING FIRST REQUEST
FOR CONTINUANCE AND SETTING
PHC/HRG

On September 27, 2012, the parties filed a stipulated request to continue the hearing dates. The attorneys for the parties used an OAH form that applies only to continuances of the hearing dates, and which does not include proposed mediation or prehearing conference (PHC) dates. As a result, the parties did not indicate mutually agreed dates for either proceeding, but did list mutually agreed hearing dates. The reason given for the continuance was that the parties had agreed to assess Student. OAH interprets the request as a request to vacate the mediation and continue the hearing only, with OAH selecting the PHC date.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Mediation:	Not requested. If the parties change their mind closer to the hearing date, they may submit a stipulated request for mediation Tuesday through Thursday, with a least one week's notice to OAH.
Prehearing Conference:	January 16, 2013 at 1:30 PM
Due Process Hearing:	January 21-24, 2013 at 1:30 PM first day, 9:00 AM other days, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: September 27, 2012

/s/

RICHARD T. BREEN
Presiding Administrative Law Judge
Office of Administrative Hearings